

IN THE HIGH COURT OF KARNATAKA : AT BANGALORE

DATED : 30TH DAY OF MAY 1998

BEFORE

THE HON'BLE MR.JUSTICE K.H.N.KURANGA

C.R.P. NO.574 OF 1998

Between:

M.S.Subbu,
S/o S.Subbanna,
Major,
Residing at No.721,
Siddartha Layout,
Nazarbad Mohalla,
Mysore.

Petitioner

(By Sri Sanjay A.Patil
Advocate for petitioner)

And:

1. M/s Vijaya Finance
Corporation (Regd.)
No.52, 1st Floor,
D.Devaraja Urs Road,
Mysore/1.

2. B.V.Shastry,
Since deceased by L.Rs.

a) Smt.Sunanda Bhaskar
Shastry, aged 35 years,

b) Sheela Shastry,
aged about 15 years.

c) Subba Shastry,
aged 13 years,

d) Deepa Shastry,
aged 11 years.

L.Rs.(a) to (d) are residing
at Door No.2, Siddarthanagar,
Malavathi Road, Mysore.

L.R.2(a) is the wife of deceased
respondent No.2, R-2(b) to (d)
are minor L.Rs.of deceased R-2.

3. H.Ramakrishna Bhat,
S/o Ananthapadmanabha Rao,
Major, R/o Raghu Nivas,
N.S.Road, Mysore.

4. M.Vishnu Murthy,
S/o M.S.Venkataramana,
Prop: Sanman Hotel,
Srirampet, Mysore-1.

Respondents

(By Sri D.L.Suresh,
Advocate for Respondents)

This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure against the order dated 5-2-1998 passed in Ex.No.2155 of 1994 on the file of the Judge, Court of Small Causes, Mysore, rejecting I.A.II filed under Section 151 of the Code of Civil Procedure praying to direct the decree holder to take steps.

This petition is coming on for further orders, this day, the Court made the following:-

ORDER

This petition is listed for continuation of the stay order granted.

2. The petitioner is the judgment-debtor No.2 in Ex.Case No.2155/94 pending on the file of the Court of Small Causes, Mysore. He has, in this petition, challenged the order dated 5-2-1998 passed by the court below on I.A. No.II filed in the said execution case.

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3. The petitioner filed the said application requesting the court to direct the decree-holder that the first respondent-plaintiff to take steps against the other judgment-debtors. The court below dismissed the said application.

3. The petitioner has deposited the title deeds of the house in question for security of the loan advanced to the Principal Debtor deceased B.V.Shastry. Judgment-debtor No.1(a) is the wife and judgment-debtor No.1(b) to (d) are the children of the principal debtor and they are minors. The petitioner has not produced any document to show that the other judgment-debtors have monthly earnings of huge amount for running the hotel etc. In the circumstances, the court below has rejected the application I.A.No.II filed by the petitioner. The court cannot force the decree-holder to file the execution petition against all the judgment-debtors. It is open to him to proceed against any one of the judgment-debtors.

4. In the circumstances, the order passed by the court below cannot be interfered with and the petition filed by the petitioner is liable to be dismissed and accordingly, it is dismissed.

Sd/-
JUDGE

KBN/-